

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

DAQUAN WHITENER,)	
)	
Petitioner,)	
)	
v.)	No. 1:17-cv-02338-TWP-MPB
)	
WARDEN, Correctional Industrial Facility,)	
)	
Respondent.)	

Entry Dismissing Petition for a Writ of Habeas Corpus

Daquan Whitener filed this 28 U.S.C. § 2254 habeas corpus action on July 10, 2017, challenging a prison disciplinary conviction and sanctions in prison disciplinary action case number CIC 17-04-0196. In that action his sanctions included a demotion in credit earning class. After he filed his petition, the Indiana Department of Correction reconsidered his administrative appeal, amended to a lesser charge the offense he had been charged with, and vacated the sanctions that had been imposed. Dkt. 8-7. Because the new sanctions did not impact the fact or length of Mr. Whitener's incarceration, respondent moved to dismiss this action as moot. Dkt. 8. The Court directed Mr. Whitener to respond to the motion to dismiss no later than October 20, 2017. Mr. Whitener has not responded or otherwise objected to the motion to dismiss.

"A case becomes moot when it no longer presents a case or controversy under Article III, Section 2 of the Constitution." *Eichwedel v. Curry*, 700 F.3d 275, 278 (7th Cir. 2012). "In general a case becomes moot when the issues presented are no longer live or the parties lack a legally cognizable interest in the outcome." *Id.* (citation and quotation marks omitted). A federal court may issue a writ of habeas corpus pursuant to 28 U.S.C. § 2254 only if it finds the applicant "is *in custody* in violation of the Constitution or laws or treaties of the United States." 28 U.S.C.

§ 2254(a) (emphasis added). Therefore, a habeas action becomes moot if the Court can no longer “affect the duration of [the petitioner’s] custody.” *White v. Ind. Parole Bd.*, 266 F.3d 759, 763 (7th Cir. 2001).

Here, Mr. Whitener’s conviction and sanctions were vacated and thus can no longer affect the duration of his custody. Accordingly, his habeas action is moot. *See id.* An action which is moot must be dismissed for lack of jurisdiction. *See Diaz v. Duckworth*, 143 F.3d 345, 347 (7th Cir. 1998).

Respondent’s motion to dismiss, dkt. [8], is **granted** for lack of jurisdiction. Judgment consistent with this Entry shall now issue.

IT IS SO ORDERED.

Date: 12/27/2017



TANYA WALTON PRATT, JUDGE
United States District Court
Southern District of Indiana

Distribution:

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